

ORAL ARGUMENT SCHEDULED FOR MARCH 11, 2014

13-7019

**United States Court of Appeals
For The District of Columbia Circuit**

FREEDOM WATCH, INC.,

Plaintiff-Appellant,

-v.-

ORGANIZATION OF THE PETROLEUM EXPORTING COUNTRIES,

Defendant-Appellee.

**APPELLEE'S MOTION FOR
CONTINUANCE OF ORAL ARGUMENT**

Carolyn B. Lamm
Hansel T. Pham
Anne D. Smith
Nicolle E. Kownacki

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February 3, 2014

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*Attorneys for the Organization
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The parties recently received notice that oral argument has been scheduled in the above-captioned appeal for March 11, 2014. Appellee OPEC respectfully requests that the argument be continued, with a new date of either April 10 or 11, 2014, or otherwise a date in the following term beginning September 2014. Counsel for OPEC has contacted counsel for Appellant Freedom Watch seeking consent to OPEC's motion of continuance. Though OPEC acceded to both of Freedom Watch's requests for extensions in the District Court proceedings,¹ Appellant opposes this motion.

Carolyn B. Lamm, lead appellate counsel for OPEC who will be arguing on OPEC's behalf, will be unavailable on the currently scheduled argument date, March 11, 2014, due to her prior commitment to serve as lead counsel for the Republic of the Philippines in the international arbitration matter *Baggerwerken Decloedt En Zoon NV v. Republic of the Philippines*, ICSID Case No. ARB/11/27, currently pending before the International Centre for the Settlement of Investment Disputes (ICSID). An oral hearing on the merits of the *Baggerwerken* arbitration is scheduled to take place March 3-14, 2014. This hearing date was set more than 13 months ago for all parties to the arbitration. Ms. Lamm will be required to attend each day of the hearing, as will other attorneys, including Hansel Pham,

¹ See Freedom Watch's Consent Motion for Extension of Time, dated Sept. 19, 2012 (Attachment A); OPEC's Response to Plaintiff's [Second] Motion for Extension of Time, dated Oct. 8, 2012 (Attachment B).

who are key participants in OPEC's defense in this case. Following the hearing, Ms. Lamm is scheduled to teach a class over several weeks at the University of Miami School of Law. The first dates she is available to appear before this Court are April 10 and 11, 2014.

Ms. Lamm has acted as lead counsel for Defendant since the inception of Appellant's lawsuit, and has been involved in all aspects of the proceedings in the District Court. The requested continuance would permit OPEC's lead counsel, who is to argue the case for OPEC, to prepare for and participate in oral argument before this Court.

Should the Court wish to further postpone the argument beyond April 10 or 11, OPEC respectfully requests that the Court continue the argument until its new term in September 2014. Ms. Lamm is also lead counsel for Respondent in an international arbitration matter under the Arbitration Rules of the United Nations Commission on International Trade Law (UNCITRAL), *Oxus Gold plc v. Republic of Uzbekistan*. Ms. Lamm is required to prepare for and attend a hearing in the *Oxus Gold* matter, currently scheduled to take place in Paris from April 28 to May 6, 2014, and she will need to travel to Paris for preparations in advance of the hearing. Following that hearing, Ms. Lamm will herself be sitting as an arbitrator at a hearing in Paris in the matter of *Içkale İnşaat Limited Şirketi v. Turkmenistan*, ICSID Case No. ARB/10/24, until May 24, 2014.

Accordingly, Appellee respectfully request that oral argument in this case be continued until either April 10 or 11, 2014 or otherwise until September 2014.

Respectfully submitted on February 3, 2014:

/s/ Carolyn B. Lamm

Carolyn B. Lamm (D.C. Circuit Bar No. 221325)
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*Attorneys for the Organization
of the Petroleum Exporting Countries*

CERTIFICATE OF SERVICE

I hereby certify that on February 3, 2014, I caused to be served an electronic copy of the foregoing Motion for Continuance of Oral Argument by filing on the CM/ECF system, and a true and correct paper copy by certified mail on the following counsel for Plaintiff-Appellant Freedom Watch, Inc.:

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Date: February 3, 2014

/s/ Carolyn B. Lamm

Carolyn B. Lamm

Attachment A

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

FREEDOM WATCH, INC.

Plaintiff,

v.

ORGANIZATION OF PETROLEUM
EXPORTING COUNTRIES,

Defendant.

Civil Action No. 1:12-cv-00731 (RBW)

CONSENT MOTION FOR EXTENSION OF TIME

Plaintiff Freedom Watch respectfully moves for an extension of time of two weeks to respond to Defendant's Motion to Dismiss and as grounds therefore would show:

1. The response is currently due on or before September 21, 2012.
2. Counsel for Plaintiff requires additional time due to unforeseen client matters that have occupied a large part of counsel's work week.
3. Neither party will be prejudiced as a result of this extension.
4. On September 18, 2012 Plaintiff contacted counsel for Defendant and requested consent for this motion. On September 19, 2012 **Defendant granted consent for this motion** and Plaintiff granted consent for an additional week (5 business days) for Defendant to file a reply.

WHEREFORE, Plaintiff moves for an extension of time until and including October 5, 2012 to respond to Defendant's Motion to Dismiss.

Respectfully Submitted,

/s/ Larry Klayman
Larry Klayman, Esq.

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

FREEDOM WATCH, INC.

Plaintiff,

v.

**ORGANIZATION OF PETROLEUM
EXPORTING COUNTRIES,**

Defendant.

Civil Action No. 1:12-cv-00731 (RBW)

[PROPOSED] ORDER

Upon consideration of Plaintiff's Motion For Extension of Time, the Court, having considered same, and all papers and argument in connection therewith, finds as follows:

IT IS HEREBY:

ORDERED: that the Plaintiff's Motion for Extension of Time is hereby **GRANTED**. Plaintiff shall have until and including October 5, 2012 to file a response to Defendant's Motion to Dismiss.

Entered this _____ day of _____, 2012.

SO ORDERED,

Hon. Reggie B. Walton

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 19th day of September, 2012 a true and correct copy of the foregoing Motion for Extension of Time (Civil Action No. 1:12-cv-00731 (RBW)) was submitted electronically to the District Court of the District of Columbia Civil and served via electronic service upon the following:

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*Attorney for the Organization of the
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Respectfully Submitted,

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Attachment B

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

FREEDOM WATCH, INC.)	
)	
)	Civil Action No. 1:12-cv-00731 (RBW)
<i>Plaintiff,</i>)	Judge Reggie B. Walton
)	
v.)	
)	
ORGANIZATION OF THE PETROLEUM)	
EXPORTING COUNTRIES)	
)	
)	
<i>Defendant.</i>)	
)	

RESPONSE TO PLAINTIFF’S MOTION FOR EXTENSION OF TIME

On September 24, 2012, the Court issued a Minute Order granting Plaintiff Freedom Watch, Inc.’s motion for extension of time and setting October 5, 2012 as the deadline for Plaintiff’s Opposition to Defendant’s Motion to Dismiss. Later that same day, the Court issued another Minute Order establishing October 26, 2012 as the deadline for Defendant Organization of the Petroleum Exporting Countries (“OPEC”) to file any Reply.

On October 5, 2012, Plaintiff filed a second Motion for Extension of Time seeking to extend the deadline for its Opposition from October 5 to October 11, 2012.

Given the District of Columbia Civility Code, Defendant does not object to Plaintiff’s request for an extension of its deadline until October 11, 2012 on the condition that Defendant will continue to have three weeks (*i.e.*, until November 1, 2012) to file its Reply.

Respectfully submitted on October 8, 2012:

/s/ Carolyn B. Lamm

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CERTIFICATE OF SERVICE

I hereby certify that on this 8th day of October 2012, I caused the foregoing Motion to be filed with the Clerk of the Court using the CM/ECF system, and separately served a copy of the same either by Electronic Case Filing or by regular, first-class United States mail, postage pre-paid, on the following counsel of record:

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/s/ Carolyn B. Lamm
Carolyn B. Lamm